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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,627	08/08/2005	Shigeo Shirakura	Q85332	3522
23373 7590 05/28/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
LIAO, DIANA J				
ART UNIT		PAPER NUMBER		
1793				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/518,627

Applicant(s)

SHIRAKURA, SHIGEO

Examiner

DIANA J. LIAO

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/20/2009 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims are amended to include that the method is performed "without ultrasonic treatment". There is insufficient support for this in the originally filed disclosure. The comparative example mentioned in the remarks filed 3/20/2009 on page 2 refer to a method using an abrasion agent which is micro-

vibrated. This is not commensurate in scope with the exclusion of "ultrasonic treatment" as a whole, and thus the limitation is new matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dittmer, et al. (US 6,241,826), optionally in view of Schneider, et al. (US 6,232,254).

Dittmer '826 teaches a process for regenerating catalytic converters, including those used for reducing NO_x gases in vented air from power plants. (col 1, lines 4-14) After pretreatment in a positive displacement reactor using water as a solvent (col 2, lines 8-15), the catalyst is transferred to an ultrasonic reactor (col 2, lines 32-37) The cleaning liquid in the ultrasonic reactor is water and the treatment is done between the freezing and boiling points of the liquid, preferably at 40-80°C. (col 2, lines 51-57) If

there are still residues on the catalyst, it is further rinsed with a liquid, such as distilled water or tap water. (col 2, lines 58-64) In an exemplary embodiment, Dittmer '826 teaches the use of distilled, described also as demineralized water with no additives, for pretreatment, rinsing, ultrasonic treatment, and further rinsing. (col 3, lines 17-21, 52; col 4, lines 28, 36, 53) This distilled, demineralized water, with no additives, is interpreted to be as pure as possible and have no chlorine or cleaning components therein. The water from the treatment steps are sent to a wastewater treatment system. (col 3, lines 45-48) The treatment time in the positive displacement reactor is at least 5 hours (col 4, lines 1-2) and the time in the ultrasonic treatment is 15 minutes, though it is dependent on the level of soiling (col 4, lines 41-46). After the final rinsing step, the catalytic converter is dried until the relative humidity is satisfactory (col 4, lines 57-62), thus removing the water. The temperature in the positive displacement reactor is from 25-35°C. (col 4, lines 13-14) The term "ambient temperature" as defined by the instant application is a temperature within the range of about 5°C and 40°C (page 17) and thus the temperatures taught in Dittmer '826 fall within the definition. Dittmer '826 teaches the catalyst converters to be fully immersed during the pretreatment in the positive displacement reactor. (col 3, line 55)

Both the positive displacement and ultrasonic treatment steps involve immersing the catalytic converter module into distilled or demineralized water for an allotted amount of time. The temperature ranges of both steps overlap or touch the claimed temperature range.

Dittmer '826 is silent regarding the regeneration water without performing a heavy metal treatment step. Dittmer '826 also does not teach immersing the catalyst until bubbling stops, using the regeneration water repeatedly before wastewater treatment, or assessing the catalyst for performance before installing the catalyst back into a flue gas apparatus. Dittmer '826 also does not teach that the catalyst is not dried before reinstallation into the NO_x removal apparatus.

Regarding the time during treatment, either the ultrasonic treatment or positive displacement step is considered to be equivalent to the claimed regeneration step. The claimed process uses open language, and does not exclude the extra steps as recited in Dittmer '826. The ultrasonic treatment is performed within the claimed time duration. However, even if the time were not within the range, such as the step within the positive displacement reactor, it would have been obvious to one of ordinary skill in the art to perform the treatment for as long as necessary to achieve desired regeneration. If the necessary regeneration in a given application is not as complete as another, it would have been obvious to use a shorter treatment time.

The lack of a heavy metal treatment step is found to be inherent or obvious in view of Dittmer '826. If there is no need to remove the heavy metals, such as if the catalyst did not contain heavy metal contamination, no heavy metals are contained in the water after regeneration or if the subsequent use of the water is not sensitive to heavy metal contaminants, the heavy water treatment is not necessary. Treating the used regenerating water without a heavy metal treatment is not found patentable over the prior art.

Immersing the catalyst into water until bubbling stops is also held to be obvious in view of Dittmer '826. It would be obvious to immerse the catalytic converter in water for an effective amount of time, whether or not it is coincidental with the time of bubbling. One of the pretreatment steps in Dittmer '826 is also taught to allow liquid to enter the porous structure of the catalytic converter in order to loosen the contaminants in the material. (col 2, lines 10-15) Liquid entering a porous structure that was originally used in a gaseous environment, such as a NO_x converter, should cause bubbling, and thus a complete immersion would be indicated by the cessation of bubbling.

It would also be obvious to assess the catalyst before reinstallation into a flue gas apparatus. One of ordinary skill in the art would at least periodically assess the effectiveness or quality of a catalyst before reinstalling a regenerated catalyst into an apparatus since catalysts need to be replaced from normal use even if almost fully regenerated. One would be motivated to test the catalytic performance of the catalyst before installing in order to avoid having to manipulate a large industrial process if it is found later that the catalyst reinstalled was no longer effective. Assessing the catalyst before reinstallation could involve another isolated apparatus without dealing with the general, possibly continuous, industrial process. Therefore it would be obvious to test catalyst activity before installation in order to avoid putting an ineffective catalyst into the main operations.

The use of regeneration water for a plurality of regeneration steps is also found to be obvious to one of ordinary skill in the art. It would be obvious to use the regeneration water as many times as possible before treatment as long as it was found

to be effective in order to save on costs in water treatment. Since the process taught in Dittmer '826 involves movement of catalytic converters by way of crane (col 3, lines 49-50; col 4, lines 27-28; 48-49) it is feasible that the water remains in the basins while converters are continuously changed and brought from one basin to the other. In addition, Dittmer '826 teaches the treatment of catalytic converters, plural, being introduced into the basin for desired effects (col 3, lines 63-65), suggesting that multiple converters are treated at the same time, which would meet the instant claims stating that the regeneration water is used for regenerating another NO_x removal catalyst. Therefore, the use of regeneration water a plurality of times is found to be obvious.

Optionally, Schneider '254 teaches a method for cleaning and/or regenerating a deactivated catalyst for use in nitrogen scrubbing. The method utilizes demineralized water. (abstract) The water is used to dissolve and remove the surface layer of the catalyst. (col 3, lines 5-8) The cleaning and regeneration of the catalytic devices is performed at ambient temperatures. (col 3, lines 20-22) Schneider '254 also teaches a process, represented by Figure 3, where the catalysts are contacted with demineralized water in a scrubber (6) and the used regenerating fluid is sent to a separator (8) and later a settling tank (9) with the overflow of liquid sent through lines (12, 13) directly back into the tank for desalinated water (11) where it is sent back as regenerating fluid to the scrubber (6). Water which is particularly contaminated with solids are taken from the bottoms of the settling tank (9) and sent through a line (10) to a water treatment

plant. (described col 4, lines 10-33) The catalyst may be dried using stack gas or hot air. (col 4, lines 58-59)

A regenerating step at ambient temperatures and the use of regenerating water a plurality of times is found to be obvious in view of Schneider '254. The regeneration with demineralized water is performed at ambient temperatures so that no further heating step is necessary. (col 3, lines 21-23) One would be motivated to perform the step at ambient temperatures in the process taught in Dittmer '826 in order to reduce heating costs. The use of regenerating water a plurality of times is also taught in Schneider '254 in that overflow effluent from the scrubbing process is sent right back with fresh water to another scrubbing step. One would be motivated to reuse regenerating water as much as possible in order to reduce costs. Schneider '254 teaches that low consumption of regenerating fluid is an advantageous goal. (col 4, lines 59-61)

Therefore, a regeneration step at an ambient temperature, the use of regeneration water a plurality of times as taught in Schneider '254, and not drying the catalyst before reinstallation is found to be obvious for use in Dittmer '826 in order to save costs and resources.

Claims 1-11 are not found patentable over the prior art.

7. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dittmer '826 and optionally Schneider '254 as applied to claims 1-11 above, and further in view of Sueyoshi, et al. (JP 53-125964).

Dittmer '826 is silent as to how the catalyst is oriented when it is installed into a NO_x removal apparatus. Dittmer '826 does not teach that the catalyst is inverted with respect to the direction of the flow of discharge gas when it is installed after regeneration.

JP '964 teaches an apparatus wherein a catalyst unit is placed in a device so that it can be easily inverted in order to ensure even deterioration of the catalyst. (page 2, left column, last paragraph) It would be obvious to incorporate this technique into the process of Dittmer '826 in order to have the catalyst wear down more uniformly. One would be motivated to include catalyst inversion when installing in the process of Dittmer '826 improve the overall health and lifetime of the catalyst and also the uniformity of reaction. Therefore, claims 12-15 are not found patentable over the prior art.

Response to Arguments

8. Applicant's arguments filed 2/20/2009 and 3/20/2009 have been fully considered but they are not persuasive.

Applicant argues that the claimed invention regenerates a catalyst by mere immersion and does not involve an ultrasonic treatment step as in Dittmer '826. However, the claims use open language regarding a regeneration step, and does not exclude other steps in the process. There is also insufficient support for excluding an ultrasonic step, since the comparative examples utilize an abrasion agent, which is not in Dittmer '826. Dittmer '826 also involves two steps which utilize immersion in water.

The first step does not utilize ultrasonic treatment, and the instant claims merely require one step (possibly in a sequence of other steps) which does not involve ultrasonic treatment. Applicant argues that the instant invention utilizes "bubble break-up action" (pg 7, arguments). Applicant also argues that the ultrasonic treatment of Dittmer '826 may break the honeycomb structure of the catalyst. The use of bubble break-up is not positively required in the claims and nor is the honeycomb structure remaining intact, even if the process of Dittmer '826 leads to damage.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANA J. LIAO whose telephone number is (571)270-3592. The examiner can normally be reached on Monday - Friday 8:00am to 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ngoc-Yen M. Nguyen/
Primary Examiner, Art Unit 1793

DJL